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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 10/675,626

APR 14 2006

Filing Date: September 30, 2003

Appellant(s): KNOCKEART ET AL.

GROUP 3600

Rex I. Huang
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/8/06 appealing from the Office action mailed 4/5/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 27 and 39-55.

Claims 1-26 and 28-38 have been canceled.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: claims 27 and 29-55 stand rejected under 35 USC 102(b) as being anticipated by MMANDHYAN et al.

WITHDRAWN REJECTIONS

The following grounds of rejection is not presented for review on appeal because they have been withdrawn by the examiner: the rejection under 35 USC 102(e) as being anticipated by Fleck et al is withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 27 and 39-55 are rejected under 35 U.S.C. 102(b) as being anticipated by MANDHYAN et al.

MANDHYAN et al disclose a system and method for monitoring traffic including a plurality of calibrant/probe vehicles 110 and a central site 50, meeting the scope of a server, wherein during a calibration phase, the plurality of calibrant/probe vehicles collect data for given route segments wherein the data associates at least the location of the route segment and speed, and subsequently the data is provided to the central site. A probe vehicle includes a GPS receiver 12 for tracking location, a cellular telephone 22 for communicating with the central site and a probe computer 118 for storing and processing data. After the calibration phase, a monitoring phase is implemented using the probe vehicle.

With respect to claim 54, the claimed method is met by the method performed during the monitoring phase of MANDHYAN et al including the following steps:

- (1) the probe computer 118 is provided (or downloaded by telephone/modem communication) with a stored record of bandwidth patterns for one or all of the routes (6:66-7:3) for storage at the probe vehicle;
- (2) the central computer 140 directs activation of the probe vehicle or directs that a probe vehicle not communicate further (7:54-56);
- (3) the GPS receiver obtains position and time information for recording in the vehicle (3:60-4:4, 4:20-25, claim 2);
- (4) the vehicle observed speed data are compared to the stored record of speed data which is part of the bandwidth patterns (7:4-7, 7:21-26);
- (5) the probe vehicle is programmed to transmit its speed data if the measured bandwidth differs from the mean bandwidth previously stored, that is, if the vehicle's speed deviates from the stored speed (7:3-7, 7:23-26); and,
- (6) the central computer sends the activation (command) signal to a probe vehicle either directing activation of the probe vehicle or directing that this vehicle not communicate further, see above step (2) (7:50-56, 7:63-8:5), wherein the probe vehicle necessarily has been provided with the stored record of bandwidth patterns for one or all of the routes (7:1-3).

With respect to claim 27, the claimed method is met by the method performed during the monitoring phase of MANDHYAN et al including the following steps:

- (1) storing a map of a road network at a vehicle (6:66-7:3);
- (2) receiving a command from a central site to enable, i.e. activate, logging of the traffic data (7:30-33, 7:50-56);
- (3) tracking the location of the vehicle (3:60-4:4, 4:20-25, claim 2);
- (4) logging traffic-related data including the vehicle speed (7:21-23);
- (5) receiving a communication from the central site which selects and controls the rate of reporting (3:6-9, 7:50-56, claim 3); and,
- (6) transmitting data to the central site (7:3, 7:23-26, claim 1, step (j)).

(10) Response to Argument

With respect to the claims grouped together in Group I, consisting of claims 39-44 and 54, the appellants argue that MANDHYAN et al fail to disclose the limitation "wherein the server sends to the vehicle the command to enable transmission . . . if the server has provided planned routes . . . to the vehicle." The appellants reword this as meaning "the sending of a command from the server to the vehicle for enabling transmission of traffic-related data is related to whether the server has provided planned routes along the road network to the vehicle" (page 7, paragraph 1). Likewise, the appellants argue Mandhyan et al "does not disclose that the selection of probe vehicles is in any way related to whether the server has provided planned routes along the road network to the vehicle" (page 7, paragraph 4).

The appellants have not analyzed the claim properly in light of its broadest, reasonable interpretation thereof and the appellants fail to specifically argue the claim limitation since the claim language does not require any relationship between the selection of a vehicle and whether a server provided the planned route. Rather, claim 54, given its broadest, reasonable interpretation, particularly with respect to lines 12-13, provides the limitation that the server sends a command to enable transmission of traffic-related data "if" the server has provided a vehicle with a planned route. The claimed feature provides no limitations with respect to conditions when the server has not provided planned routes to a vehicle, nor does it provide any limitation with respect to conditions when the server has provided planned routes to the vehicle but does not send a command to enable transmission of traffic-related data. The appellants appear to argue the scope of the claim language in a narrow interpretation as if the language "if" infers a condition of "if and only if" or that the sending a command "is in any way related to whether" planned routes have been provided. Neither of these interpretation properly determines the scope of the claim.

In Mandhyan et al, a probe vehicle is required to have been provided with the stored record of bandwidth patterns for one or all of the predetermined routes; that is the definition of a probe vehicle. If the vehicle did not have the bandwidth patterns, it would not enable the method of Mandhyan et al to be performed since it could not detect any deviations therefrom for transmitting traffic notifications. Thus, in Mandhyan et al, the central site provides planned routes

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via the fact that the probe vehicle is downloaded with a stored record of bandwidth patterns for one or all of the predetermined routes to be monitored and thusly meets the scope of the claim language "the server has provided planned routes along the road network to the vehicle." Moreover, the probe vehicle is commanded by the central station to be activated or non-activated. In either instance of the sending of the activation/non-activation, it is directed only to a probe vehicle, which probe vehicle has been provided with the stored bandwidth patterns. Thus, the central station sends commands to enable transmission of the traffic-related data to probe vehicle, which probe vehicles are those vehicles which have been provided with the bandwidth data of the one or more predetermined routes.

With respect to the claims grouped together in Group II comprising claims 27, 45-53 and 55, the appellants argue that MANDHYAN et al fail teach or suggest a command to enable logging of traffic data and a separate request to transmit the logged data. Additionally, the appellants argue that the request to transmit the logged data requires that the request is subsequent to the logging of data. These arguments are not convincing for the following reasons.

There is nothing in the specification or the claims that provides any substantive teachings for the requirement of two separate receptions that requires the separation of the step of receiving of a command to enable logging and the step of receiving a request to transmit data. MANDHYAN et al disclose receiving a signal from the central site that activates the probe vehicle; this step of receiving the activation reply from the central site enables the logging of traffic-related data as well enables the transmission of the logged data, and therefore meets the scope of the claim given their broadest, reasonable interpretation. Alternatively, MANDHYAN et al disclose that the central site selects and controls the rate of reporting as a function of time and location along segments of the routes (3:6-9) and that each probe vehicle, during monitoring, may additionally be used to continue to refine calibration data from the calibration phase by using the probe vehicle in the calibration mode (9:21-24). These steps are clearly defined by a control/command from the central site subsequent to the activation thereof since there would be no way for the probe vehicle to make the determination that it should operate in such mode. Lastly, with respect to the alleged distinction due to the implication that the language "receiving a

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request to transmit the logged data to the server" requires that the request be subsequent to the logging of data, the argument is not persuasive because the activation of the device of Mandhyan et al enables both the logging of traffic-related data and a "request" for the subsequent transmission of the logged data, whether it is in the exception-reporting mode of the monitoring phase (automatically) or the reporting of the refinement data in the refining calibration phase (controlled by central computer). The activation reply sent by the central site to the probe vehicle does, by its nature, request that logged traffic data, for example speed deviations, be reported in response to predetermined conditions.

Therefore, it is deemed that the teachings of MANDHYAN et al disclose the claimed method for collecting traffic-related data wherein the central site sends a command to enable logging if the central site provided planned routes via the fact that all selected probe have been provided with the stored record of one or all of the routes, wherein a route is a planned traversal of selected road segments. Furthermore, MANDHYAN et al disclose an activation signal from a central site that is received by the probe vehicle and that provides both steps of enabling logging of traffic-related data by the probe vehicle as well as the transmission of the logged data from the probe vehicle to the central site.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Gregory C. Issing



Conferees:

Thomas Tarcza 

Thomas Black 